IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 16681 of 2003

Between:

Pagolu Sriramulu S/o. Chinthaiah
Ulavapadu Toddy Tappers Coop. Society, Ulavapadu Mandal, Prakasham District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Prohibition and Excise Department, rep. by its Secretary, Secretariat, Hyderabad.
2 The Collector/District Election Authority, Prakasham District, Ongole.
3 G. Adinarayana, Senior Coop. Inspector of Coop. Societies, Prakasham and Nellore Districts.
4 K. Srinivasachary,S.H.O/Election Officer, Singarayakonda, Prohibition & Excise Station, Singarayakonda, Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more particularly one in the nature of Writ of Mandamus declaring the proceedings issued by the 2nd respondent in Rc.164/2002/C2 dated 16-07-2003 issuing fresh election schedule as illegal, arbitrary and contrary to the provisions of the A.P. Cooperative Societies Act and Rules made there under and consequently direct the respondents to conduct the elections to the Ulavapadu Toddy Tappers Coop. Society based on the voters list prepared on 6-5-2003 in pursuance of the earlier Notification dated 24-7-203 issued by the 2nd respondent.

Counsel for the Petitioner:MR.A.SATYA PRASAD

Counsel for the Respondent No.1: G.P. for Prohibition & Excise Department.

Counsel for the Respondents Nos.2 to 4: G.P. for Cooperatives.

The Court made the following :

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO :16681 of 2003

ORDER:

The petitioner herein challenges the notification dated
16-07-2003 notifying fresh election schedule as illegal and arbitrary and seeks a consequential direction to conduct elections on the basis of the voters list prepared on 06-05-2003 in pursuance of the earlier notification dated 24-07-2003 issued by the 2nd respondent.

2. Heard both sides.

3. The question involved is whether the respondents, having issued the earlier notification dated 22-04-2003 for conducting elections, are entitled to issue the fresh notification dated
16-07-2003.

4. It is not in dispute that earlier an election notification was issued on 22-04-2003 initiating the process of election. However, on the date of election, as there was no sufficient quorum to conduct elections, the Election Officer postponed the elections. Thereafter, the impugned notification was issued by the 2nd respondent on
16-07-2003 notifying the election schedule afresh on the ground that there is a change in the membership of the Society and informed that the election would be conducted from the stage where it was stopped. When once the elections postponed, it cannot be interdicted and the logical end of it has to be seen. Just because the election should not be proceeded with for want of required quorum, the authorities have no jurisdiction to issue fresh notification for conducting elections. This principle is well established by a judgment of this Court in (1999 (4) ALT 656).

Having regard to the same, the impugned notification dated 16.07.2003 is not sustainable and the same is liable to be set aside. Therefore, the respondents shall proceed with the process of election and complete the same in pursuance of the notification already issued on 22-04-2003.

5. Accordingly, the writ petition is allowed. No costs.

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B.PRAKASH RAO, J

23rd July, 2004

Chvn/BJ.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Twenty Third day of July Two thousand and Four.

ASSISTANT REGISTRAR.

// True Copy//

SECTION OFFICER

To

1. The Secretary, Prohibition & Excise Department,
   Secretariat, Govt. of A.P., Hyderabad.
2. The Collector/District Election Authority,
   Prakasham District, Ongole.
3. G.Adinarayana (Election Officer) Senior Coop.Inspector of Coop.Societies,

Prakasham and Nellore Districts.

4. K.Srinivasachary, S.H.O./Election Officer,

Singarayakonda Prohibition & Excise Station,

Singarayakonda, Prakasam District.

5. Two C.Cs. to G.P. for Prohibition & Excise, High Court Buildings,Hyderabad.(OUT).

6. Two C.Cs. to G.P. for Cooperative Societies, High Court Buildings, Hyderabad (OUT).

7. Two C.Ds.